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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

CENTRAL SECRETARIAT

LOK SABHA

The following Bill was introduced in Lok Sabha on 28th August, 1972:—

BILL No. 87 OF 1972

A Bill to provide for the acquisition of the undertakings of the Indian Copper Corporation Limited for the purpose of enabling the Central Government to conserve and exploit, in a scientific and rational manner, to the maximum advantage of the nation, the copper deposits in the Singhbhum belt in the State of Bihar, to utilise the copper deposits in such manner as to subserve the common good, in the context of the requirement of copper in the country, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Indian Copper Corporation (Acquisition of Undertaking) Act, 1972.

Declaration as to the policy of the State.

2. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the date of commencement of this Act;

(*b*) "company" means the Indian Copper Corporation Limited, being a company incorporated in England and having its principal place of business, in India, at Gillander House, Netaji Subhas Road, Calcutta-1;

(*c*) "Hindustan Copper" means the Hindustan Copper Limited, being a Government company as defined in section 617 of the Companies Act, 1956, and having its registered office at Khetri Nagar in the State of Rajasthan; 1 of 1956.

(*d*) "undertaking of the company" means the undertaking of the company in India.

CHAPTER II

ACQUISITION OF THE UNDERTAKING OF THE INDIAN COPPER CORPORATION LIMITED

Undertaking of the company to vest in Central Government.

4. On the appointed day, the undertaking of the company shall, by virtue of this Act, stand transferred to, and vested in, the Central Government.

General effect of vesting under section 4.

5. (*1*) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any); powers, authorities and privileges; and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles; mined or extracted copper and other ores, concentrates and metals, in process or in stock or in transit; cash balances, cash on hand, reserve fund, investments and book debts; and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of the company in relation to its undertaking in India; and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto; and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the company in relation to its undertaking in India.

(*2*) All property included as aforesaid in the undertaking of the company which has vested in the Central Government under section 4 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other incumbrances affecting it, and any attachment, injunction or any decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(*3*) Subject to the other provisions contained in this Act, all contracts and working arrangements which are subsisting immediately before the appointed day and affecting the company shall, in so far as they relate to the undertaking of the company, cease to have effect or be enforceable

against the company or any person who was surety, or had guaranteed the performance thereof, and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectually as if instead of the company, the Central Government had been named therein or had been a party thereto.

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the appointed day by or against the company in relation to its undertaking in India may, as from such commencement, be continued and enforced by or against the Central Government as it might have been enforced by or against the company if this Act had not been passed, and shall cease to be enforceable by or against the company, its surety or guarantor.

Power of Central Government to direct vesting of the undertaking in Hindustan Copper.

6. (1) Notwithstanding anything contained in sections 4 and 5, the Central Government may, by order in writing, direct that the undertaking of the company together with all its properties, assets, liabilities and obligations specified in sub-section (1) of section 5 shall, instead of continuing to vest in the Central Government, vest in Hindustan Copper either on the date of publication of the direction or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in that direction.

(2) Where an order vesting the undertaking of the company in Hindustan Copper is made under sub-section (1), all the rights, liabilities and obligations of the Central Government in relation to the undertaking of the company shall, on and from the date of such vesting, be deemed to have become the rights, liabilities and obligations, respectively of Hindustan Copper.

(3) Hindustan Copper shall, in the management and administration of the undertaking of the company, act in accordance with such directions, if any, as may be issued by the Central Government in this behalf.

(4) Hindustan Copper may also apply to the Central Government at any time for instructions as to the manner in which the management of the undertaking of the company or in relation to any matter arising in the course of such management shall be conducted.

Duty to deliver possession of property acquired and documents relating thereto.

7. (1) Where any property has vested in the Central Government or Hindustan Copper under this Act, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government or Hindustan Copper, as the case may be, forthwith.

(2) Any person who, on the appointed day, has in his possession or under his control, any books, documents or other papers relating to the undertaking of the company, which have vested in the Central Government or Hindustan Copper under this Act and which belong to the company or would have so belonged if the undertaking of the company had not vested in the Central Government or Hindustan Copper, shall be liable to account for the said books documents and papers to the Central Government or Hindustan Copper, as the case may be, and shall deliver them up to the Central Government or Hindustan Copper.

(3) The Central Government or Hindustan Copper may take, or cause to be taken, all necessary steps for securing possession of all properties which have vested in that Government or Hindustan Copper under this Act.

Duty to furnish particulars.

8. The company shall, within one month from the appointed day or such further period as the Central Government may allow in this behalf, furnish, in respect of the undertaking of the company, as on the appointed day, a complete inventory of—

(*i*) all the properties and assets;

(*ii*) all the liabilities and obligations; and

(*iii*) all agreements entered into by the company and in force on that day (including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the company), under which, by virtue of this Act, the Central Government or Hindustan Copper has, or will have, or may have, liabilities or obligations,

and for this purpose, the Central Government or Hindustan Copper shall afford the company all reasonable facilities.

Transfer of service of existing employees.

9. (*1*) Every officer or other employee employed, immediately before the appointed day, in connection with the affairs of the undertaking of the company, shall, as from that day, become an officer or other employee of the Central Government and shall, as from the date of publication of the direction made under sub-section (*1*) of section 6 or the date specified therein, become an officer or other employee of Hindustan Copper and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held under the company, if this Act had not been passed, and shall continue to do so, unless and until his employment in the Central Government or, as the case may be, in Hindustan Copper, is terminated or until his remuneration, terms and conditions are duly altered by the Central Government or Hindustan Copper:

Provided that nothing contained in this sub-section shall apply to any officer or other employee, who has, by notice in writing given to the Central Government within thirty days from the appointed day, intimated his intention of not becoming an officer or other employee of the Central Government or Hindustan Copper.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee of the company to the Central Government or Hindustan Copper by reason of the provisions of this Act shall not entitle any such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947.

Provident, superannuation, welfare and other funds.

10. (*1*) Where the company has established a provident, superannuation, welfare or any other fund for the benefit of its officers or other employees and constituted a trust in respect thereof, the moneys relatable to the officers or other employees, whose services have become transferred, by or under this Act, to the Central Government or Hindustan Copper, shall, out of the moneys standing on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and vested in, the Central Government or Hindustan Copper, as the case may be, free from any such trust.

(2) The moneys which stand transferred under sub-section (1) to the Central Government or Hindustan Copper shall be dealt with by that Government or Hindustan Copper, as the case may be, in such manner as may be prescribed by rules made under this Act.

CHAPTER III

PAYMENT OF AMOUNT

Amount to be paid for transfer and vesting of the undertaking of the company.

11. (1) The company shall be given by the Central Government, in cash, an amount of rupees seven and a half crores, for vesting in it, under section 4, of the undertaking of the company.

(2) The amount payable under sub-section (1) shall carry simple interest at the rate of four per cent. per annum from the appointed day.

CHAPTER IV

MISCELLANEOUS

Penalties.

12. (1) Any person, who—

(a) having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the Central Government or Hindustan Copper; or

(b) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the Central Government or Hindustan Copper under this Act; or

(c) wilfully withholds or fails to furnish to the Central Government or Hindustan Copper, as required by sub-section (2) of section 7, any document which may be in his possession, custody or control; or

(d) wilfully fails to furnish an inventory as required under section 8; or

(e) when required to furnish such inventory furnishes any particulars therein which are false and which he either knows or believes to be false, or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund, within a time to be fixed by the court, any property or cash wrongfully withheld or obtained or any document wilfully withheld or not furnished.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

Offences by companies.

13. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Receiver not to be appointed in relation to the business of the company.

14. No proceeding for the appointment of a Receiver in respect of the business of the company in so far as it relates to its undertaking in India, shall lie in any court except with the consent of the Central Government.

Act to have overriding effect.

15. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court, tribunal or other authority.

Protection of action taken in good faith.

16. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or Hindustan Copper or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or Hindustan Copper or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Contracts in bad faith may be cancelled or varied.

17. (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within twelve months immediately preceding the 10th day of March, 1972, between the company or the managing agents of the company or any other person, in so far as such contract or agreement relates to the undertaking of the company, has been entered into in bad faith or is detrimental to the interests of the undertaking of the company, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court within the local limits of whose jurisdiction the principal place of business of the company in India is situated, for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

Power to make rules.

18. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal of Act 11 of 1972.

19. The Indian Copper Corporation (Taking Over of Management) Act, 1972, is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

Copper is a crucial non-ferrous metal having a wide range of industrial and technological uses. There is at present a wide gap between the demand and the domestic production. There is thus a clear need and urgency for formulating a programme of conservation and development of the scarce copper resources of the country by an integrated approach.

2. The Indian Copper Corporation Limited, a private sector unit, registered in the United Kingdom, is the only producer of copper in the country at present. The development of copper in the Khetri belt in Rajasthan and Rakha area in Bihar have been taken up in the public sector by the Hindustan Copper Limited. The Indian Copper Corporation has recently completed an expansion programme by the installation of a Flash Smelter and in creating this larger metal capacity it was envisaged that the concentrates from Rakha Phase I would also be processed in the Corporation's smelter.

3. Both the Indian Copper Corporation and the Hindustan Copper Limited have applied for the grant of lease of the Sideshwar area. The development of Singhbhum copper belt, consisting of the areas currently held under lease by the Indian Copper Corporation, the Rakha area being developed by the Hindustan Copper Limited and the adjoining areas like Sideshwar, together, with new finds of copper deposits like the one in Turmadih, in the most economic and scientific manner requires an integrated approach.

4. By ensuring a co-ordination of the activities of the public sector projects at Khetri and Rakha and the private sector unit of the Indian Copper Corporation a number of advantages such as step-up of production on a priority basis and integrated development of mineral resources and metal output would emerge.

5. The Central Government, therefore, decided to acquire the undertaking of the Indian Copper Corporation Limited. As it was found that such acquisition would take some time, the management of the undertaking of that Corporation, pending acquisition thereof, was taken over by the Central Government under the Indian Copper Corporation (Taking Over of Management) Act, 1972. The present Bill seeks to complete the process of acquisition of the undertaking of the Indian Copper Corporation Limited, by providing for the vesting of the same in the Central Government.

NEW DELHI; S. MOHAN KUMARAMANGALAM.
The 18th August, 1972.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

(Copy of letter No. 12/10/72-Met.III, dated the 21st August, 1972 from Shri S. Mohan Kumaramangalam, Minister of Steel and Mines, to the Secretary, Lok Sabha.)

The President having been informed of the subject matter of the proposed Bill recommends under clauses (1) and (3) of article 117 of the Constitution of India, the introduction of the Bill to provide for the acquisition of the undertaking of the Indian Copper Corporation Limited in the Lok Sabha and also recommends to the Lok Sabha the consideration of the Bill.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 11 of the Bill provides that the Indian Copper Corporation Limited shall be given by the Central Government, in cash, an amount of Rs. 7.50 crores, for vesting in it, of the undertaking of that Corporation. The Bill, if enacted, would, therefore, involve an expenditure of Rs. 7.50 crores. The same shall carry simple interest at the rate of 4 per cent. per annum from the appointed day until payment thereof [*vide* clause 11 (2)]. It is estimated that the interest payments are likely to be of the order of Rs. 2.50 lakhs per month.

2. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill empowers the Central Government to make rules generally to carry out the provisions of the Bill. Such powers would enable the Central Government to make rules with regard to matters of procedure and administrative detail which it is not practicable to provide for in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

S. L. SHAKDHER,
Secretary.

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